

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
5:12-CR-227-H

UNITED STATES OF AMERICA)	
)	
v.)	ORDER OF DETENTION PENDING
)	TRIAL
JOSEPH V. TAYLOR,)	
)	
Defendant.)	

This case came before the court today for hearing on the government's motion, pursuant to 18 U.S.C. § 3142(f), to detain defendant pending trial. The government presented the testimony of a member of the Raleigh Police Department assigned to the task force of the Bureau of Alcohol, Tobacco, Firearms and Explosives. The defendant presented the testimony of the proposed third-party custodian, his aunt. The court also reviewed the pretrial services report. After careful consideration pursuant to 18 U.S.C. § 3142(g) of the credible information and argument submitted, and based on the findings and reasons stated below and in open court, the court finds by a preponderance of the evidence that there is no condition or combination of conditions that will reasonably assure defendant's appearance as required, and by clear and convincing evidence that there is no condition or combination of conditions that will reasonably assure the safety of any other person and the community before trial if defendant is released. The government's motion is therefore GRANTED.

Background

Defendant was charged in a one-count indictment on 2 July 2012 with possession of a firearm and ammunition by a felon on 16 December 2011 in violation of 18 U.S.C. § 922(g)(1). The evidence presented at the hearing showed that the charges arise from an incident on the

alleged offense date in which a confidential informant reported that defendant had a firearm. Police subsequently stopped the car in which defendant was riding and recovered a pistol and two magazines of ammunition from the front seat area where defendant was seated. There was also a baby in the car. Defendant was a convicted felon at the time. In response to a question from police about whether defendant planned to use the gun to commit robberies, he responded that he would do anything necessary to provide his children a good Christmas.

Discussion

The law requires that defendant be detained pending trial based on the following principal findings and reasons: evidence showing that the government has a strong case, including the evidence reviewed above; the gun-related nature of the offense charged; the circumstances of the offense charged, including the presence of a baby in the car, defendant's possession of two magazines of ammunition, and defendant's statement that he would do anything to provide for his children at Christmas; defendant's criminal record, including three felony convictions (including one for robbery), eight misdemeanor convictions, three probation revocations (including one for absconding), and several failures to appear; the danger of continued gun-related offense conduct by defendant if released; defendant's history of substance abuse; the unsuitability of the proposed third-party custodial arrangement due to the proposed custodian's work schedule, the proposed custodian's lack of familiarity with defendant's criminal history and the instant charges, and the extent of the risk of flight and danger presented by defendant; and the other findings and reasons stated in open court.

The court considered evidence offered as mitigating, such as his family ties to the area. It finds, however, that the factors favoring detention outweigh such evidence.

Conclusion

IT IS THEREFORE ORDERED that defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the government, the person in charge of the corrections facility shall deliver defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

This, the 18th day of July 2012.



James E. Gates
United States Magistrate Judge